

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
PECOS DIVISION**

**BERKLEY NATIONAL INSURANCE  
COMPANY,**

*Plaintiff,*

**v.**

**JUAN CARLOS ORTA-GONZALEZ,  
FRANCISCO ALBERT FERRER,**

*Defendants.*

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**PE: 23-CV-00003-DC-DF**

**ORDER**

BEFORE THE COURT is Plaintiff Berkley National Insurance Company’s (“Plaintiff”) Amended Motion for Default Judgment (Doc. 26); Plaintiff’s Motion to Withdraw the Amended Motion for Default Judgment (“Motion to Withdraw”) (Doc. 40); and Defendant Francisco Albert Ferrer’s (“Defendant Ferrer”) Opposed Motion to Continue the Default Judgment Hearing (“Motion to Continue”). (Doc. 36). This matter is before the undersigned Magistrate Judge pursuant to a standing order of referral from the District Judge, 28 U.S.C. § 636, and Appendix C of the Local Rules for Assignment of Duties to United States Magistrate Judges.

Plaintiff initiated this action with the filing of a complaint on January 6, 2023. (Doc. 1). An Amended Complaint was filed on March 13, 2023. (Doc. 5). Defendant Juan Carlos Orta-Gonzalez (“Defendant Orta-Gonzalez”) was personally served on April 28, 2023. (Doc. 22-1 at 2). Defendant Orta-Gonzalez failed to properly plead, respond, or otherwise defend. The Court then issued an Order to Show Cause to Defendant Orta-Gonzalez on May 23, 2023. (Doc. 12). Defendant Orta-Gonzalez failed to respond.

In response, Plaintiff moved for default judgment against Defendant Orta-Gonzalez. (Doc. 22). The Court construed the Motion as a Motion for Entry of Default and directed the

Clerk of Court to enter default against Defendant Orta-Gonzalez. (Doc. 23 at 2). The Clerk entered default on October 5, 2023. (Doc. 24). Plaintiff then filed its Amended Motion for Default Judgment on October 12, 2023. (Doc. 26). A hearing on Plaintiff's Amended Motion for Default Judgment is scheduled for Monday, February 26, 2024.

Per the instant Motion to Withdraw the Amended Motion for Default Judgment, Plaintiff now seeks to withdraw its Amended Motion for Default Judgment and pass the currently scheduled hearing. (Doc. 40). Accordingly,

**IT IS ORDERED** that Plaintiff's Motion to Withdraw the Amended Motion for Default Judgment is **GRANTED**. (Doc. 40).

**IT IS FURTHER ORDERED** that Plaintiff's Amended Motion for Default Judgment is **WITHDRAWN**. (Doc. 26).

**IT IS FURTHER ORDERED** that Defendant Ferrer's Motion to Continue the Default Judgment Hearing is **DENIED** as moot. (Doc. 36).

It is so **ORDERED**.

SIGNED this 23rd day of February, 2024.

A handwritten signature in black ink, appearing to read "David B. Fannin", written over a horizontal line.

DAVID B. FANNIN  
UNITED STATES MAGISTRATE JUDGE